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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/766,725	01/22/2001	Egbert Jux	CL/V-30578A	1309

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NOVARTIS
CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PLAZA 104/3
EAST HANOVER, NJ 07936-1080

EXAMINER

ANGEBRANDT, MARTIN J

ART UNIT	PAPER NUMBER
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1756

DATE MAILED: 06/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/766,725

Applicant(s)

JUX ET AL.

Examiner

Martin J. Angebranndt

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-7,10-15,22,23 and 25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-7,10-15,22,23 and 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The response of the applicant has been read and given careful consideration. The certified translation has been received. To accord the applicant priority, the PTO must receive a copy of the priority document (with ribbon). This allows the examiner to compare the translation with the original document. When this is of record and proves to be an accurate translation, the case should pass to issue. The examiner pointed out that the priority document itself was not present in the file, but failed to emphasize to the applicant that this would also be required to properly accord this instant application that priority.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1,3-7,10,13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin et al. '087, in view of Duis et al. '090, Kiyosaki JP 08-047784 and Farnworth et al. '284.

Martin et al. '087 teach blister packages comprising a polymer layer (30) printed on both sides, an adhesive layer (32), a foil (34), a laquer layer (38), an adhesive layer (40) and a polypropylene layer (50) which is heat welded to the formed polypropylene lens package (14) (figures 5 and 6, 6/21-8/61). Information specific to the product (which is changeable), such as lot numbers, expiration dates, contact lens powers are formed by printing on the outside of the polymer layer (30) (8/27-31). The blister packs are shown in strips of five (figure 1).

Duis et al. '090 teach labels for contact lens blister packs comprising a polymer layer (50) printed on both sides (62,52), an adhesive layer (56), a foil (54), an adhesive layer (58) and a

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polypropylene layer (60). The use of laser marked/ablated labels allows the sealed blister packages to be steam sterilized, which cannot be done with thermal transfer marking processes. (abstract and 5/30-60) The laser ablation removes an ink layer to reveal an underlying ink layer of a different/contrasting color or all the layers above the metal foil (see figure 2 and 4/34-5/26). The laser ablation can be preformed either before or after the stock is affixed to the container. (5/27-29). The polymer layer (50) has printing on either side. The use of a colored polymeric layer rather than a metal foil layer (54) is disclosed. The ablation is preformed with a carbon dioxide laser (10.63 microns wavelength and 90-100% of 15 Watt power over a 4 inch square area (4/53-5/15).

Kiyosaki JP 08-047784 (note machine translation) shows marked blister packs in figures 3 and 4. These are marked as part of the continuous process disclosed with respect to figure 2. The carbon dioxide laser and marking optics are shown as 11 and 12 in figure 2. The use of a laser to remove a portion of an ink layer in section [0004]. The PVC (polyvinyl chloride, a plastic) is discolored by the CO₂ laser irradiation and each pocket of the blister pack is marked. [0011]. The apparatus "8" punches out each of the separate groups. The apparatus "6" seals the packaging. These are shown in figures 3 and 4 as two columns of 5 tablets. Each if the columns is considered as strip. The blister pack is a laminate as the blister is formed between two layers. Apparatus 10 marks the packages after they are sealed by apparatus 6. The use of either PVC or polypropylene and the use of discoloration or simple recessing as the marks is disclosed. [0005].

Farnworth et al. '284 teaches the use of an indexing pin (26), which is used to hold the carrier until all the chips are laser marked. (5/3-16 and 5/63-66). The use of carbon dioxide and Nd:YAG or Nd:YFL lasers is disclosed. (5/17-58).

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It would have been obvious to modify the process set forth in Martin et al. '087 by marking the blister packs after heat sealing them as taught by Kiyosaki JP 08-047784 and Duis et al. '090 and to use a carbon dioxide laser to laser ablate markings down to the foil level as taught by Duis et al. '090 rather than using printing to enable steam sterilization. There is a reasonable expectation of success based upon the similarity of the laminates of Martin et al. '087 and Duis et al. '09 and to temporarily holds the blister packs stationary so they can be marked by the lasers using retractable index pins such as those taught by Farnworth et al. '284. The marking of stationary materials would be much easier and have clearer markings.

The examiner notes that the submission of the certified priority document would obviate this rejection and those based upon it below.

The defect in the rejection argued by the applicant has been addressed by the addition of Farnworth et al. '284 which shows the use of similar means where the articles to be marked is temporarily held in place against a registration/stopping pin in a laser marking process.

4. Claims 1-7,10-13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin et al. '087, in view of Duis et al. '090, Kiyosaki JP 08-047784, Farnworth et al. '284 and Roy '771.

Roy '771 teaches that carbon dioxide lasers, and YAG laser are known to be useful in laser marking (3/36-51). The energy, wavelength and laser spot size are disclosed. (5/51-62 and table 1.) The laser spot size is equivalent to the hole size.

In addition to the basis provided above, Roy '771 teaches the equivalence of carbon dioxide and Nd-YAG lasers in laser marking processes as well as the size of width of the markings which is the same as the laser beam and the examiner holds that it would have been

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obvious to one of ordinary skill in the art to modify the invention of the combination of Martin et al. '087 with Duis et al. '090, Farnworth et al. '284 and Kiyosaki JP 08-047784 by using other lasers and/or laser spot sizes, such as those taught by Roy '771 based upon the disclosure of equivalence within that reference.

The rejection stands for the reasons above as no further arguments were directed at this rejection.

5. Claims 1-7 and 10-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin et al. '087, in view of Duis et al. '090, Kiyosaki JP 08-047784, Farnworth et al. '284 and Roy '771, further in view of Bornfleth et al. '683

Bornfleth et al. '683 establish that within the manufacturing field, it is old and well known that closely adjacent processing lines allow a single attendant to monitor several of them simultaneously.

In addition to the basis provided above, the examiner holds that it would have been obvious to one of ordinary skill in the art to modify the invention of the combination of Martin et al. '087 with Duis et al. '090, Farnworth et al. '284, Kiyosaki JP 08-047784 and Roy '771 by running plural lines adjacent to one another to save on personnel costs as disclosed by Bornfleth et al. '683.

As the arguments are the same as above, the response provided above is relied upon without further comment. The rejection stands.

6. Claims 1-7, 10-13, 15, 22, 23 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin et al. '087, in view of Duis et al. '090, Kiyosaki JP 08-047784, Farnworth et al. '284, Roy '771 and Kim et al. '878

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Kim et al. '878 teach that the polymeric (plastic) sheet may be colored or not. (8/57-61). Various thermoplastic polymers, including PVC and polypropylene are disclosed. (3/7-40). The use of aluminum foil backing is also disclosed. (8/46-57)

In addition to the basis provided above, the use of either colored or uncolored plastics is considered obvious based upon the disclosure of Kim et al. '878. The use of the colorant makes no difference to the marking as the polymer itself absorbs the laser in the combination of Martin et al. '087 with Duis et al. '090, Farnworth et al. '284, Kiyosaki JP 08-047784 and Roy '771, but the addition of a colorant could increase the spectral absorption properties of the film to allow the use of other lasers, such as Nd-YAG lasers.

The rejection stands for the reasons above as no further arguments were directed at this rejection.

7 THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

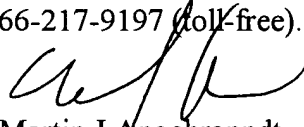
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8 Any inquiry concerning this communication or earlier communications from the examiner should be directed to Martin J Angebranndt whose telephone number is 571-272-1378.

The examiner can normally be reached on Monday-Thursday and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Huff can be reached on 571-272-1385. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Martin J Angebranndt
Primary Examiner
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06/07/2005